



FISCAL MEMORANDUM

SB 882 - HB 1188

March 15, 2022

SUMMARY OF BILL AS AMENDED (015841): Requires a court to require a person charged with driving under the influence of an intoxicant, vehicular assault, aggravated vehicular assault, vehicular homicide, or aggravated vehicular homicide, to operate only a motor vehicle equipped with a functioning ignition interlock device unless such an order would not be in the best interest of justice in setting bail.

Requires the court to order that the portion the indigent defendants are unable to pay be paid by the Electronic Monitoring Indigency Fund (EMIF). Authorizes a court to order other alternative monitoring devices or impose other special conditions for those defendants with certain prior convictions.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures - \$10,500/FY22-23 and Subsequent Years/ Electronic Monitoring Indigency Fund

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 40-11-118(d), when a court is determining the amount and conditions of bail to be imposed on a defendant charged with certain offenses, the court may impose special conditions, including the use of ignition interlock devices, transdermal monitoring devices or other alternative alcohol monitoring devices, electronic monitoring with random alcohol or drug testing, or pretrial residency in an in-patient alcohol or drug rehabilitation center.
- If the court orders the use of a transdermal monitoring device or other alternative alcohol monitoring device, and the defendant is indigent, the court is required to order the portion of the costs of the device that the defendant is unable to pay to be paid by the EMIF. The EMIF is further used to cover the cost of an ignition interlock device that an indigent defendant is unable to pay.
- Funding for EMIF reimbursement of ignition interlock device costs comes from state appropriations and a portion of the fees assessed for certain offenses.
- Based on figures from the Department of Safety, there were 16,407 drivers convicted with a DUI offense in FY19-20. This figure is assumed to remain relatively stable.
- There is an average of 5,861 ignition interlock devices installed each year, representing 35.72 percent of total DUI convictions.

- It can be reasonably assumed that this figure would increase to at least 38 percent under this legislation.
- Therefore, there would be an average of 6,235 (16,407 x 38%) ignition interlock devices installed each year.
- It is assumed that 20 percent of those electing to have interlock devices will qualify as indigent. This will result in 75 $[(6,235 - 5,861) \times 20\%]$ new claims.
- The average EMIF portion of an interlock device is \$140 per device per month.
- Pursuant to the Tennessee Criminal Court Proceedings, Rule 5(c)(2), unless the defendant expressly waives the right to a preliminary hearing, when the defendant pleads not guilty, the magistrate shall schedule a preliminary hearing to be held within 14 days if the defendant remains in custody and within 30 days if released.
- Because the local courts are currently backlogged, it is assumed defendants will receive a preliminary hearing within an average of 30 days. Therefore, the period for which the defendant will initially require ignition interlock monitoring pursuant to this legislation is assumed to be 30 days, or one month.
- This will result in a recurring increase in state expenditures to the EMIF estimated to be \$10,500 (75 devices x \$140) in FY22-23 and subsequent years.
- Any increased workload to the courts can be accommodated within existing resources and personnel.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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